

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

THE GAS COMPANY, LLC )

DOCKET NO. 2008-0081

To File a General Rate Increase )  
For All Utility Gas Divisions. )  
\_\_\_\_\_)

ORDER APPROVING THE PARTIES'  
REQUEST TO AMEND THE REGULATORY SCHEDULE

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

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FILED

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By this Order, the commission approves the Parties' request to amend the regulatory schedule.<sup>1</sup>

I.

Amended Regulatory Schedule

As set forth in the commission's Order Approving Proposed Stipulated Prehearing Order, as Modified, filed on December 16, 2008 ("Prehearing Order"),<sup>2</sup> the relevant procedural dates that govern this rate case proceeding include:

<u>Procedural Step</u>	<u>Date(s)</u>
14. TGC's rebuttal testimonies	April 17, 2009
15. Consumer Advocate's rebuttal information requests ("IRs") to TGC	April 27, 2009

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<sup>1</sup>The Parties are THE GAS COMPANY, LLC ("TGC"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

<sup>2</sup>See also commission's letters, dated January 12, 2009 and March 17, 2009.

16. TGC's responses to the Consumer Advocate's rebuttal IRs May 8, 2009
17. Settlement Letter/Agreement (if any) May 15, 2009\*
- \*Footnote 4:  
Id.

By joint letter dated April 14, 2009, the Parties timely submit certain agreed-upon amendments to the regulatory schedule for the commission's approval. Specifically, the Parties propose to: (1) eliminate Procedural Steps No. 14 to No. 16; and (2) revise Procedural Step No. 17 to read as follows:

17. Settlement Letter/Agreement and, for any remaining disputed items: (1) TGC's rebuttal testimonies, and (2) the Consumer Advocate's response or position statement on the outstanding issues addressed in TGC's rebuttal testimonies May 15, 2009

The Parties, in support of their request, state that they have been engaging in informal, preliminary settlement discussions during the past few weeks, and while they have made substantial progress in resolving their respective differences, they "would like additional time to confer and meet to determine whether a global resolution or settlement can be reached on all or at least most of the issues in [this] docket."<sup>3</sup> Thus:

. . . . In order to give the Parties additional time and resources to attempt to reach a global settlement on most, if not all, of their disputed issues, the Parties have agreed that TGC will not be submitting any Rebuttal Testimonies and the Consumer Advocate will not be submitting any Rebuttal IRs to TGC on the dates set forth in the Stipulated Regulatory Schedule. The Parties agree that it would not be an efficient use of resources to prepare Rebuttal Testimonies and/or IRs on issues that may ultimately be settled among the Parties.

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<sup>3</sup>Parties' joint letter, dated April 14, 2009, at 1.

As a result of the above, the Parties have agreed, instead, to submit by the May 15, 2009 deadline: (1) Settlement Letter/Agreement on all issues that have been settled or agreed upon by the Parties; (2) TGC's Rebuttal Testimonies on any issues not resolved via settlement discussions, if any; and (3) the Consumer Advocate's response or position statement on the outstanding issues addressed in TGC's Rebuttal Testimonies, if any. The Parties agree that this change in the schedule will effectively promote the efficient and cost-effective allocation of resources, will save time and expense associated with preparing and reviewing Rebuttal Testimonies and/or IRS on issues that may ultimately be settled among the Parties, and may expedite the Commission's review of the subject docket, particularly if a settlement can be reached on most, if not all, of these issues.

Parties' joint letter, dated April 14, 2009, at 2.

HAR § 6-61-23, governing enlargements of time, provides:

Enlargement. (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

- (1) With or without motion or notice, order the period enlarged, if written request is made before the expiration of the period originally prescribed or as extended by a previous order; or
- (2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action on jurisdictional matters and where any order expressly provides that no enlargement shall be granted.

(b) Motions for extensions of time and requests or stipulations for continuances must be in writing, except when made at hearing.

Ordinarily, when a matter is to be submitted on concurrent briefs, extensions will not be granted unless a stipulation is filed with the commission.

HAR § 6-61-23; see also Procedural Order, Section II, Schedule of Proceedings (the stipulated regulatory schedule may be amended as agreed-upon by the Parties in writing and approved by the commission), and Section X, General (the Prehearing Order shall control the subsequent course of this proceeding, unless modified at or prior to the hearing to prevent manifest injustice).

Here, the Parties, in effect, propose to: (1) extend the deadline for TGC to file its rebuttal testimonies, if any, from April 27, 2009 to May 15, 2009, and to limit the scope of the gas utility's rebuttal testimonies to any remaining disputed issues; (2) delete as unnecessary Procedural Steps No. 15 and No. 16, governing the Consumer Advocate's issuance of rebuttal IRs and TGC's responses thereto; and instead (3) provide the Consumer Advocate with the opportunity to file, by May 15, 2009, its "response or position statement on the outstanding issues addressed in TGC's Rebuttal Testimonies[.]" In the commission's view, the Parties' proposal, which is intended to focus their efforts and resources on reaching consensus on a possible global settlement agreement, appears consistent with "secur[ing] the just, speedy, and inexpensive determination of [this] proceeding," and thus, is approved by the commission.<sup>4</sup> Based on

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<sup>4</sup>See also Procedural Order, Section II, Schedule of Proceedings (the stipulated regulatory schedule may be amended as agreed-upon by the Parties in writing and approved by the commission), and Section X, General (the Prehearing Order shall control the subsequent course of this proceeding, unless modified at or prior to the hearing to prevent manifest injustice).

the Parties' representations, the commission also finds good cause to extend the deadline date for TGC to file its rebuttal testimonies, from April 17, 2009 to May 15, 2009.

Lastly, the Parties, in their efforts to reach agreement on a written stipulation, shall adhere to the following guidelines: (1) the settlement agreement should fully explain and provide the supporting bases (calculations, worksheets, data, and all other evidence) or other rationale to justify and support a commission finding that the proposed revenue requirements (revenues, expenses, rate base, and rate of return) set forth in the stipulation are just and reasonable, including the applicable citations to the docket record;<sup>5</sup> and (2) the revenues, expenses, and rate base amounts agreed-upon by the Parties should be consistent with the test year concept,<sup>6</sup> and utilize a normalized test year period.<sup>7</sup>

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<sup>5</sup>In re Young Bros., Ltd., Docket No. 2006-0396, Order No. 23625, filed on September 4, 2007 (directing the parties to submit a supplemental filing in support of their settlement agreement).

<sup>6</sup>See, e.g., In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Docket No. 2006-0409, Decision and Order No. 24085, Section II.B, Tank 1200N-2, filed on March 10, 2008 (disallowing the parties' agreement to include the costs associated with a capital expenditure project that was scheduled for completion outside of the test year).

<sup>7</sup>In re Young Bros., Ltd., Docket No. 2008-0266, Order Setting Forth Certain Pre-Application Instructions to Young Brothers, Limited, filed on October 28, 2008 (the water carrier shall utilize a normalized, twelve-month test year period, consistent with HAR § 6-65-31).

## II.

### Orders

#### THE COMMISSION ORDERS:

1. The Parties' request, dated April 14, 2009, to amend the regulatory schedule, is approved. Accordingly:


- (A) Procedural Steps No. 14 to No. 16 are deleted; and
- (B) Procedural Step No. 17 is revised to read as follows:

17. Settlement Letter/Agreement and, for any May 15, 2009  
remaining disputed items: (1) TGC's rebuttal  
testimonies, and (2) the Consumer Advocate's  
response or position statement on the  
outstanding issues addressed in TGC's  
rebuttal testimonies

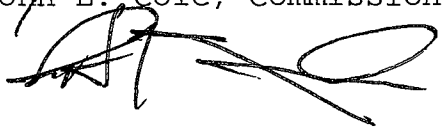
2. The Parties, in their efforts to reach agreement on a written stipulation, shall adhere to the following guidelines: (A) the settlement agreement should fully explain and provide the supporting bases (calculations, worksheets, data, and all other evidence) or other rationale to justify and support a commission finding that the proposed revenue requirements (revenues, expenses, rate base, and rate of return) set forth in the stipulation are just and reasonable, including the applicable citations to the docket record; and (B) the revenues, expenses, and rate base amounts agreed-upon by the Parties should be consistent with the test year concept, and utilize a normalized test year period.

DONE at Honolulu, Hawaii APR 27 2009.


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

  
By  
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Michael Azama  
Commission Counsel

2008-0081.laa



CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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